

1 STEFANI E. SHANBERG (State Bar No. 206717)  
2 ROBIN L. BREWER (State Bar No. 253686)  
3 MADELEINE E. GREENE (State Bar No. 263120)  
4 WILSON SONSINI GOODRICH & ROSATI, P.C.  
5 Professional Corporation  
6 One Market Plaza  
7 Spear Tower, Suite 3300  
8 San Francisco, California 94105  
9 Telephone: (415) 947-2000  
10 Facsimile: (415) 947-2099  
11 E-Mail: sshanberg@wsgr.com  
12 rbrewer@wsgr.com  
13 mgreene@wsgr.com

8 RYAN R. SMITH (State Bar No. 229323)  
9 WILSON SONSINI GOODRICH & ROSATI, P.C.  
Professional Corporation  
650 Page Mill Road  
10 Palo Alto, California 94304  
Telephone: (650) 493-9300  
11 Facsimile: (650) 493-6811  
E-Mail: rsmith@wsgr.com

12 Attorneys for Plaintiff  
13 VORMETRIC, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

1 Vormetric, Inc. (“Vormetric”) hereby alleges for its complaint against defendant  
 2 Protegrity Corporation (“Protegrity”), on personal knowledge as to its own activities and on  
 3 information and belief as to the activities of others, as follows:

4 **NATURE OF THIS ACTION**

5 1. This is an action for declaratory judgment of noninfringement of two United States  
 6 patents pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202, and the United States  
 7 Patent Law, 35 U.S.C. § 100 *et seq.*, and for such other relief as the Court deems just and proper.

8 **THE PARTIES**

9 2. Plaintiff Vormetric is a privately held Delaware corporation, with its principal place  
 10 of business at 2545 North 1st Street, San Jose, California 95131, in this judicial district.  
 11 Vormetric is an industry leader in data security solutions that span physical, virtual, and cloud  
 12 environments.

13 3. On information and belief, Defendant Protegrity is a Cayman Islands Corporation  
 14 with a mailing address at P.O. Box 309, Ugland House, South Church Street, George Town, Grand  
 15 Cayman, Cayman Islands KY1-1104.

16 **INTRADISTRICT ASSIGNMENT**

17 4. Pursuant to Civil Local Rule 3-2(c), this is an Intellectual Property Action to be  
 18 assigned on a district-wide basis.

19 **BACKGROUND**

20 5. United States Patent No. 6,321,201 (“the ’201 patent”) is entitled “Data Security  
 21 System for a Database Having Multiple Encryption Levels Applicable on Data Element Value  
 22 Level.” The ’201 patent states that it issued on November 20, 2001. A true and correct copy of  
 23 the ’201 patent is attached as Exhibit A.

24 6. United States Patent No. 8,402,281 (“the ’281 patent”) is entitled Data Security  
 25 System for a Database.” The ’281 patent states that it issued on March 19, 2013. A true and  
 26 correct copy of the ’281 patent is attached as Exhibit B.

27 7. On March 12, 2015, counsel for Protegrity, Woodrow H. Pollack, wrote to  
 28 Vormetric CEO Alan Kessler, claiming that his law firm has “reviewed many technical aspects

1 of Vormetric's Tokenization with Dynamic Data Masking and believe[s] that this system may  
 2 infringe the '201 and '281 Patents." The letter included a request for "additional technical  
 3 materials in order to verify whether" Vormetric products infringe. The letter concluded with a  
 4 warning that "Protegility is anxious for us to complete our infringement investigation of  
 5 Vormetric products. Accordingly, please see that we receive the above-requested materials  
 6 within the next ten (10) days." A true and correct copy of Protegility's March 12 letter is  
 7 attached as Exhibit C.

8. Protegility has filed at least twenty-five lawsuits in District Court for the District  
 9 of Connecticut for alleged patent infringement since 2008. Recently, Protegility has become  
 10 even more focused on litigation, having filed twenty-two patent cases since 2013. On  
 11 information and belief, Protegility accused all but two of the defendants in those cases of  
 12 infringing the '201 and/or '281 patents. On information and belief, at least fourteen of  
 13 Protegility's lawsuits are currently pending, and all but two have been transferred to the Northern  
 14 District of California pursuant to a multi-district litigation ("MDL") transfer order. In addition,  
 15 six declaratory judgment lawsuits have been filed against Protegility based upon letters similar to  
 16 the one received by Vormetric. Protegility's most recent lawsuits *Protegility USA, Inc. et al v.*  
 17 *Netskope, Inc.*, Case No. 3:15-cv-00230, *Protegility USA, Inc. et al v. Netskope, Inc.*, Case No.  
 18 3:15-cv-00231, and *Protegility USA, Inc. et al v. Vaultive, Inc.*, Case No. 3:15-cv-00232, were  
 19 filed on February 18, 2015, in the District of Connecticut, two of which have been transferred to  
 20 the Northern District of California pursuant to the MDL transfer order.

#### **SUBJECT MATTER JURISDICTION AND VENUE**

21. This Court has exclusive subject matter jurisdiction pursuant to 28 U.S.C. § 1331,  
 22 1338(a), 2201, and 2202, and the Patent Laws of the United States, 35 U.S.C. § 1 et seq.

23. Venue is proper in this judicial district under 28 U.S.C. § 1391.

24. 11. Vormetric and its products do not infringe and have not infringed, either directly  
 25 or indirectly, any claim of the '201 or '281 patents, and thus Vormetric does not require a license  
 26 to the '201 or '281 patents. In view of Protegility's express allegations of infringement against  
 27

1 Vormetric, a substantial controversy exists between the parties which is of sufficient immediacy  
2 and reality to warrant declaratory relief.

## **PERSONAL JURISDICTION**

4 || 12. This Court has personal jurisdiction over Defendant Protegility.

5           13. Protegriity has undertaken significant enforcement activities within the Northern  
6 District of California.

7       14. On information and belief, Protegriaty is currently litigating twenty-one patent  
8 infringement lawsuits in the Northern District of California related to the '201 and '281 patents  
9 pursuant to the MDL transfer order, four of which were located in the Northern District of  
10 California prior to the MDL transfer order: *Protegriaty USA, Inc. et al v. Netskope, Inc.*, No. 3-  
11 15-cv-01065 (N.D. Cal.); *Protegriaty USA, Inc. et al v. Vaultive, Inc.*, No. 3-15-cv-01066 (N.D.  
12 Cal.); *Protegriaty Corp. v. PerspecSys USA, Inc.*, No. 3-15-cv-00967 (N.D. Cal.); *Prime Factors,  
13 Inc. v. Protegriaty USA, Inc.*, No. 3-15-cv-00929 (N.D. Cal.); *Protegriaty Corp. v. Trustwave  
14 Holdings, Inc.*, No. 3-15-cv-00969 (N.D. Cal.); *Protegriaty Corp. v. Prime Factors, Inc.*, No. 3-  
15 15-cv-00968 (N.D. Cal.); *Protegriaty Corp. v. AJB Software Design, Inc.*, No. 3-15-cv-00857  
16 (N.D. Cal.); *Protegriaty Corp. et al v. Skyhigh Networks, Inc.*, No. 3-15-cv-00861 (N.D. Cal.);  
17 *Protegriaty Corp. v. Epicor Software Corp.*, No. 3-15-cv-00858 (N.D. Cal.); *Protegriaty Corp. v.  
18 Shift4 Corporation*, No. 3-15-cv-00859 (N.D. Cal.); *Shift4 Corporation v. Protegriaty Corp.*, No.  
19 3-15-cv-00860 (N.D. Cal.); *Protegriaty Corp. et al v. Corduro, Inc.*, No. 3-15-cv-00825 (N.D.  
20 Cal.); *Tokenex, LLC v. Protegriaty Corp.*, No. 3-15-cv-00826 (N.D. Cal.); *Corduro, Inc. v.  
21 Protegriaty Corp. et al*, No. 3-15-cv-00801 (N.D. Cal.); *IPS Group, Inc. v. Protegriaty Corp.*, No.  
22 3-15-cv-00802 (N.D. Cal.); *TransFirst, LLC v. Protegriaty Corp. et al*, No. 3-15-cv-00803 (N.D.  
23 Cal.); *Protegriaty Corp. v. Dataguise, Inc.*, No. 3-14-cv-04283 (N.D. Cal.); *Square, Inc. v.  
24 Protegriaty Corp.*, No. 3-14-cv-03423 (N.D. Cal.); *Skyhigh Networks, Inc. v. Protegriaty Corp.*,  
25 No. 3-14-cv-03151 (N.D. Cal.); and *Protegriaty Corp. v. Informatica Corporation*, No. 3-14-cv-  
26 02588 (N.D. Cal.); consolidated as *In re Protegriaty Patent Litigation*, No. 3-15-md-02600 (N.D.  
27 Cal.) pursuant to a MDL transfer order.

1       15. On information and belief, Protegrity has licensed the '201 and '281 patents to at  
2 least three entities that, at the time of the licenses, were headquartered in the Northern District of  
3 California: Voltage Security, Inc., Ciphercloud, Inc., and Ingrian Networks, Inc. (since acquired  
4 by SafeNet, Inc.).

5       16. On information and belief, Protegrity retained Robert R. Sachs at Fenwick &  
6 West as patent counsel in the Northern District of California to prosecute the '281 patent in front  
7 of the United States Patent and Trademark Office ("USPTO").

8       17. On information and belief, Ulf Mattsson, Chief Technology Officer of  
9 Protegrity's subsidiary, Protegrity USA, Inc., has actively participated in several of Protegrity's  
10 previous patent infringement lawsuits. On information and belief, Mr. Mattsson has attended  
11 several industry conferences in the Northern District of California. Specifically, on information  
12 and belief, Mr. Mattsson attended the RSA conference in San Francisco, California in at least  
13 2011, if not other years since. Attached as Exhibit D is a true and correct copy of Mr. Mattson's  
14 blog dated February 28, 2011, discussing his attendance at the RSA conference. On information  
15 and belief, Protegrity sued companies attending the RSA conference for patent infringement. On  
16 information and belief, Mr. Mattsson has made similar trips to Northern California as well.

17       18. On information and belief, Protegrity has sent letters alleging infringement of the  
18 '201 and '281 patents to multiple other companies located within the Northern District of  
19 California.

20       19. On information and belief, Protegrity has entered into licensing discussions  
21 regarding the '201 and '281 patents within the Northern District of California.

22       20. On information and belief, Protegrity has sued at least eight companies that are  
23 headquartered in the Northern District of California, alleging infringement of the '201 and '281  
24 patents.

25       21. Defendant is subject to personal jurisdiction in this judicial district pursuant to  
26 Rule 4(k)(2) of the Federal Rules of Civil Procedure. Defendant is a Cayman Islands  
27 corporation, and is not subject to jurisdiction in any state's courts of general jurisdiction.  
28

1 Exercising jurisdiction over Defendant in this case is consistent with the United States  
2 Constitution and laws.

**FIRST CAUSE OF ACTION**  
**(Declaratory Judgment of Noninfringement of U.S. Patent No. 6,321,201)**

5           22. Vormetric repeats and realleges each and every allegation set forth above in  
6 paragraphs 1 through 21, inclusive, and incorporates them by reference herein.

7       23. The accused Vormetric products, including without limitation Vormetric's  
8 Tokenization with Dynamic Data Masking product referenced in Protegility's letter, have not  
9 infringed and do not infringe, directly or indirectly, any claim of the '201 patent, either literally  
10 or under the doctrine of equivalents. Accordingly, Vormetric has a right to continue providing  
11 products and services without interference from Protegility's '201 patent.

12        24. Accordingly, an actual, valid, and justiciable controversy has arisen and exists  
13 between Vormetric and Protegity. Vormetric desires a prompt and definitive judicial  
14 determination and declaration that its products do not infringe any claim of the '201 patent.  
15 Such a determination and declaration are necessary and appropriate at this time in order that the  
16 parties may ascertain their respective rights and duties.

**SECOND CAUSE OF ACTION**  
**(Declaratory Judgment of Noninfringement of U.S. Patent No. 8,402,281)**

19       25. Vormetric repeats and realleges each and every allegation set forth above in  
20 paragraphs 1 through 24, inclusive, and incorporates them by reference herein.

21        26. The accused Vormetric products, including without limitation Vormetric's  
22 Tokenization with Dynamic Data Masking product referenced in Protegility's letter, have not  
23 infringed and do not infringe, directly or indirectly, any claim of the '281 patent, either literally  
24 or under the doctrine of equivalents. Accordingly, Vormetric has a right to continue providing  
25 products and services without interference from Protegility's '281 patent.

26        27. Accordingly, an actual, valid, and justiciable controversy has arisen and exists  
27 between Vormetric and Protegity. Vormetric desires a prompt and definitive judicial  
28 determination and declaration that its products do not infringe any claim of the '281 patent.

1 Such a determination and declaration are necessary and appropriate at this time in order that the  
2 parties may ascertain their respective rights and duties.

3 **PRAYER FOR RELIEF**

4 WHEREFORE, plaintiff Vormetric requests entry of judgment in its favor and against  
5 defendant Protegility as follows:

6       (a) Declaring that Vormetric has not infringed, induced others to infringe, or  
7           contributed to the infringement of any claim of the '201 and '281 patents,  
8           either directly or indirectly, either literally or under the doctrine of  
9           equivalents;

10      (b) Enjoining Protegility, its officers, owners, partners, employees, agents,  
11           parents, subsidiaries, attorneys, and anyone acting in concert or participation  
12           with any of them, from making any claims that Vormetric's products or  
13           services infringe the '201 and '281 patents;

14      (c) Enjoining Protegility, its officers, owners, partners, employees, agents,  
15           parents, subsidiaries, attorneys, and anyone acting in concert or participation  
16           with any of them, from enforcing the '201 and '281 patents;

17      (d) Awarding Vormetric its costs of suit, including reasonable attorneys' fees; and

18      (e) Granting such other and further relief as the Court may deem just and proper.

19  
20 Dated: March 20, 2015

WILSON SONSINI GOODRICH & ROSATI  
Professional Corporation

22 By: \_\_\_\_\_ /s/ *Stefani E. Shanberg*  
23 Stefani E. Shanberg

24 Attorneys for Plaintiff  
25 VORMETRIC, INC.  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6(a), Vormetric hereby demands a jury trial of all issues triable by a jury.

Dated: March 20, 2015

**WILSON SONSINI GOODRICH & ROSATI**  
Professional Corporation

Attorneys for Plaintiff  
VORMETRIC, INC.